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EXCEPTION

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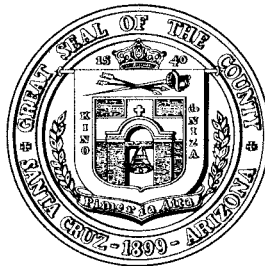
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OFFICE OF THE SANTA CRUZ  
COUNTY ATTORNEY

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ARIZONA CORPORATION COMMISSION  
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June 24, 2003

Arizona Corporation Commission  
DOCKETED

JUN 25 2003

Director of Utilities  
Arizona Corporation Commission  
Docket Control Center  
1200 West Washington Street  
Phoenix, Arizona 85007-2996

DOCKETED BY	CAK
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Re: Docket No. E-01032C-00-0751  
Docket No. G-01032A-02-0598  
Docket No. E-01933A-02-0914  
Docket No. E-01032C-02-0914  
Docket No. G-01032A-02-0914

Dear Sir/Madam:

Enclosed for filing is the original and seventeen  
copies of the Santa Cruz County's Exception to  
Recommendation, in the above referenced case.

Very truly yours,

Holly J. Hawn, Deputy  
Santa Cruz County Attorney

HJH/epc  
encs.

EXCEPTION

ORIGINAL

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Arizona Corporation Commission

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JUN 25 2003

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2003 JUN 25 A 10:06

ARIZONA CORPORATION COMMISSION  
DOCUMENT CONTROL

## BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION )  
 OF THE ARIZONA ELECTRIC DIVISION )  
 OF CITIZENS COMMUNICATION )  
 COMPANY TO CHANGE THE CURRENT )  
 PURCHASED POWER AND FUEL )  
 ADJUSTMENT CLAUSE RATE, TO )  
 ESTABLISH A NEW PURCHASED POWER )  
 AND FUEL ADJUSTMENT CLAUSE BANK, )  
 AND TO REQUEST APPROVED )  
 GUIDELINES FOR THE RECOVERY OF )  
 COSTS INCURRED IN CONNECTION )  
 WITH ENERGY RISK MANAGEMENT )  
 INITIATIVES. )

Docket No.

E-01032C-00-0751

G-01032A-02-0598

E-01933A-02-0914

E-01032C-02-0914

G-01032A-02-0914

IN THE MATTER OF THE APPLICATION )  
 OF CITIZENS COMMUNICATIONS )  
 COMPANY, ARIZONA GAS DIVISION, )  
 FOR A HEARING TO DETERMINE THE )  
 FAIR VALUE OF ITS PROPERTIES FOR )  
 RATEMAKING PURPOSES, TO FIX A )  
 JUST AND REASONABLE RATE OF )  
 RETURN THEREON, AND TO APPROVE )  
 RATE SCHEDULES DESIGNED TO )  
 PROVIDE SUCH RATE OF RETURN. )

SANTA CRUZ COUNTY  
 EXCEPTIONS TO  
 RECOMMENDATION

IN THE MATTER OF THE JOINT )  
 APPLICATION OF CITIZENS )  
 COMMUNICATIONS COMPANY AND )  
 UNISOURCE ENERGY CORPORATION FOR )  
 THE APPROVAL OF THE SALE OF )  
 CERTAIN ELECTRIC UTILITY AND GAS )  
 UTILITY ASSETS IN ARIZONA, THE )  
 TRANSFER OF CERTAIN CERTIFICATES )  
 OF CONVENIENCE AND NECESSITY )

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1  
2 FROM CITIZENS COMMUNICATIONS )  
3 COMPANY TO UNISOURCE ENERGY )  
4 CORPORATION, THE APPROVAL OF THE )  
5 FINANCING FOR THE TRANSACTIONS )  
6 AND OTHER RELATED MATTERS. )  
7

8 Santa Cruz County, by and through counsel undersigned, hereby submits  
9 its exceptions to the recommendation of the Administrative Law Judge in the  
10 above captioned matter pursuant to A.A.C. R14-3-110(B).

11 Respectfully submitted June 24, 2003.

12 MARTHA S. CHASE  
13 Santa Cruz County Attorney

14 By \_\_\_\_\_  
15 Holly J. Hawn  
16 Deputy County Attorney

17 MEMORANDUM

18 I. INTRODUCTION

19 On September 28, 2000, the Arizona Electric Division ("AED") of Citizens  
20 Communications Company ("Citizens") filed an application with the Arizona  
21 Corporation Commission ("Commission") to change Citizens Purchased Power  
22 and Fuel Adjustment Clause ("PPFAC") rate, to establish a new PPFAC bank, to  
23 begin accruing carrying charges and to request guidelines for the recovery of costs  
24 incurred in connection with energy risk management initiatives. This application  
25 was amended in September of 2001 to recover approximately \$100 million of the  
26 PPFAC bank's under recovered balance. This under recovered balance rose to  
27 approximately \$135 million by the time that this matter was heard in May of 2003.  
28

1  
2 On August 6, 2002, Citizens' Arizona Gas Division ("AGD") filed and  
3 application to increase revenues in an amount that equated to a rate increase of  
4 approximately 29 percent.

5 On December 18, 2003, UniSource Energy Corporation ("UniSource"),  
6 Citizens, and Tucson Electric Power ("TEP") filed a Joint Application. The Joint  
7 Application requested authority for UniSource to acquire the gas and electric  
8 assets of Citizens in Arizona, to transfer Citizens' gas and electric Certificates of  
9 Convenience and Necessity to UniSource, and to receive approval for certain  
10 types of financing.  
11

12 The dockets of the three cases were consolidated. Santa Cruz County  
13 together with other interested entities and individuals were granted intervenor  
14 status in the consolidated cases.  
15

16 Prior to hearing in this case a Settlement Agreement was entered into by  
17 the Joint Applicants and Commission staff. It was filed on April 1, 2003. An  
18 evidentiary hearing was held concerning the Settlement Agreement on May 1, 2,  
19 and 5, 2003. The recommendation of Administrative Law Judge Dwight Nodes  
20 was filed in the form of an Opinion and Order on June 6, 2003.  
21

22 II. EXCEPTION TO OPINION AND ORDER

23 A. Santa Cruz County has expressed its concern through the course of these  
24 proceedings that the rate and cost increases proposed by the Joint Applicants will  
25 be extremely difficult for Santa Cruz County residents and businesses to bear.  
26 Though the Settlement Agreement reduced the amount of the increases to 20.9  
27 percent on the gas side and 22 percent on the electric side, these increases will  
28

1  
2 severely impact this community. As was explained during the hearing,  
3 unemployment rates in Santa Cruz County are among the highest in the state. The  
4 summertime rates exceed 20 percent in the City of Nogales and are routinely in  
5 double digits for nearly the entire year through out the County.  
6

7 Santa Cruz County understands that there have not been rate adjustments  
8 for some period of time and that costs increase as time goes by however there  
9 should be some relief to customers, both residential and industrial, who will be  
10 asked to shoulder these drastic rate increases all at one time. This will be  
11 exacerbated by the additional costs imposed upon customers as a result of the new  
12 transmission line that is to be built through Santa Cruz County. The concept of  
13 affordability as part of the equation to be considered in determining how to  
14 structure rate increases and the PPFAC costs seems to have been abandoned in this  
15 case.  
16

17 While it is true that the original Citizens' requests were for approximately  
18 45 percent (electric) and 28 percent (gas), it is equally true that the agreed upon  
19 rate increases still far exceed anything which could be absorbed by Santa Cruz  
20 County ratepayers without significant hardship. The school districts alone will  
21 need an additional \$145,000 to cover this increase in the upcoming fiscal year.  
22 This is only one example of the impact on a small rural county but it is illustrative  
23 of the effect of the Settlement Agreement. Santa Cruz County urges the  
24 Commission to reexamine the rate and cost hikes proposed and to adjust them  
25 downward in a manner that will allow for just and reasonable rates and charges but  
26 will also protect the interest of the consumer.  
27  
28

1  
2 B. The consumers in this case have been especially impacted on the electric  
3 side by the increase in the purchased power cost resulting from the "New  
4 Contract". Though the current spot market price for power appears to be in the  
5 range of \$32.00 to \$35.00 per MW/h, the "New Contract" calls out \$58.79 per  
6 MW/h. While the Administrative Law Judge found that this price was "not an  
7 unreasonable rate for electricity considering all relevant factors." (Opinion and  
8 Order p. 12, line 27), the analysis then goes on to conclude that "given current  
9 market conditions" UniSource should continue to negotiate with Pinnacle West for  
10 additional concessions> (Opinion and Order P. 13, line 7). With the specter of  
11 market manipulation at the time this contract was negotiated (June 2001), as well  
12 as the recognition at the time that Citizens' Arizona service area could be called  
13 "Little California" (Magruder Exhibit 1), Santa Cruz county again urges the  
14 Commission to consider protection of the consumer of paramount interest in this  
15 case.

16  
17  
18 C. The gas side of the case is also cause for concern. The Commission Staff  
19 was justifiably concerned about the issues related to the Build-Out program as was  
20 RUCO. The cost overruns associated with the project led to an investigation by  
21 the Staff. A number of factors seem to have played into the high cost including  
22 Citizens underestimating the cost as well as faulty geologic (rock) information and  
23 changes in regulatory requirements. It was recognized by Commission Staff that  
24 these issues would likely result in litigation before the Commission to resolve. In  
25 any event Commission Staff has treated the 30.7 million negative acquisition  
26 premium as the equivalent of a "rate case disallowance". There is also an  
27  
28

1  
2 additional 10 million of permanent gas plant disallowance attributable to the  
3 Build-Out program. The Settlement Agreement further provides that there by no  
4 prudence reviews of the Build-Out program or of Citizens' gas procurement  
5 practices, accounting practices, or balances existing on or before October 19, 2002.  
6

7 It is understood that these provisions were arrived at in good faith as part of the  
8 settlement process between the signatory parties. The result however is still an  
9 approximate increase of 21 percent to rate payers. Balancing the interest of the  
10 utility company in recouping its costs and that of the consumers and their need to  
11 be protected from costs which should be shouldered by shareholders is indeed a  
12 delicate proposition. It is Santa Cruz County's request that the commission review  
13 this portion of the Settlement Agreement and make a determination that if any  
14 increase in gas rate is warranted, that it be adjusted downward from the Settlement  
15 Agreement rate to more fairly balance the scale.  
16

17 D. The Opinion and Order contains a recommendation that if the purchased  
18 power contract between Citizens and Pinnacle West is renegotiated, any savings  
19 flowing from a successful renegotiation of the contract should be split with 90  
20 percent to benefit the ratepayers and 10 percent to UniSource as an incentive for  
21 negotiation. It further expresses the belief that Pinnacle West does have an  
22 incentive to renegotiate the contract in view of the introduction of retail  
23 competition in the near future. Testimony was also elicited to this effect during the  
24 evidentiary hearing. The ameliorating affect of a renegotiated purchased power  
25 contract pursuant to this recommendation could have an immediate and positive  
26 impact for the rate payers. Santa Cruz County therefore requests the Commission  
27  
28

1  
2 to explore the possibility of delaying any rate or PPFAC cost increases until these  
3 renegotiations are completed so that the ratepayers receive the benefit of the  
4 savings realized and are not impacted by rate and cost hikes prematurely.

5  
6 III. CONCLUSION

7 It is therefore requested that the Commission amend Findings of Fact 21,  
8 22, and 23 as necessary to reflect reduced rates and costs as determined by the  
9 Commission together with such changes as the Commission may impose regarding  
10 the implementation of rate and cost changes.

11 It is further requested that the Order entered by the Commission reflect the  
12 changes made in the Findings of Fact.

13  
14 Submitted this 24<sup>th</sup> day of June, 2003

15  
16 MARTHA S. CHASE  
Santa Cruz County Attorney

17  
18 By Holly J. Hawn  
19 Holly J. Hawn,  
20 Deputy County Attorney  
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2 The original and seventeen copies  
3 Of the foregoing were filed by  
4 Certified mail this 24<sup>th</sup> day of  
June, 2003, to:  
5 Director of Utilities  
6 Arizona Corporation Commission  
7 Docket control Center  
8 1200 West Washington Street  
Phoenix, Arizona 85007-2996  
9  
10 Copies of the foregoing mailed  
11 This 24<sup>th</sup> day of June, 2003,  
12 to:  
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14 Chairman  
15 Arizona Corporation Commission  
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17 Phoenix, Arizona 85007  
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19 Jim Irvin  
20 Commissioner  
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